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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Alain Tornier  
Appl. No. : 10/612,296  
Filed : 07/03/2003  
Title : SHOULDER OR HIP PROSTHESIS FACILITATING ABDUCTION

Grp./A.U. : 3738  
Examiner : Stewart, Alvin J.

Docket No.: 14387

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450

PTO CUSTOMER NO. 000293

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to restriction requirement mailed August 26, 2004, the following is submitted.

The Examiner has issued an election requirement mailed August 26, 2004, with respect to different Species of the present claimed invention. The Examiner identifies Species I which is directed to the embodiment of the invention in Figs. 1-5; Species II to the embodiment of the invention disclosed in Fig. 6; Species III to the invention disclosed in Figs. 7-9; and Species IV as shown in Figs. 10-12.

For purposes of responding to this restriction requirement, applicant hereby elects the species of the invention shown in Figs. 1-5, Species I, for purposes of continued examination on the merits. This election is made with traverse. It is understood that the applicant will be entitled to consideration

of other species of the invention where the claims of the other Species are made dependent upon any generic claim which is found to be allowable.

For purposes of identifying the claims for the elected Species, the following claims are believed to be included; claims 1-7 and 10-12. In addition, claims 1, 3, 4, 6, 7, and 10 are believed to be generic to all Species. There are also a number of claims which are generic to three of the four Species.

Reconsideration of the election requirement is respectfully requested. It is believed that any search and examination of this application must apply to all embodiments of the invention and can be made without burden to the Examiner in accordance with the provisions of MPEP 803. The same art areas would be involved in any investigation.

It is further respectfully submitted that the Examiner has not offered forth an explanation or reasoning as to why the inventions are considered to be distinct. This in combination with a belief that it is not an undue burden for the Examiner to examine all embodiments of the invention in a single application, forms a basis of applicants travers of the restriction requirement.

Should the Examiner have any questions concerning this response, and the election made herein or applicant's traverse of

the restriction requirement, it would be appreciated if the Examiner would contact the Attorney-of-Record at the telephone number shown below.

The Examiner's attention is also directed to the new address of the Attorney-of-record which is reflected below. It would be appreciated if all further correspondence with respect to this application is directed to the new address.

Respectfully submitted,

DOWELL & DOWELL, P.C.

By 

Ralph A. Dowell, Reg. No. 26,868

Date: September 23, 2004

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